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DATE: September 14, 2007

NO. OF PAGES (INCLUDING THIS PAGE): 24

FOR: Examiner D. Ruiz - Art Unit 2828

COMPANY: U.S. Patent & Trademark Office

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FROM: Monte L. Falcoff

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COMMENTS:

USSN 10/791,377 - Filed: March 2, 2004
For: Laser System Using Ultra-Short Laser Pulses
Our Reference: 6550-000057/CPE

Dear Examiner Ruiz:

Please find attached the Transmittal Form and Election Under 35 U.S.C. §121 and Preliminary Amendment that was filed with the USPTO on January 19, 2007 for the above-referenced application which is evidenced by the USPTO stamped returned postcard (also enclosed). Feel free to contact me with any further questions.

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Applicant: M. Dantus et al.	Case No.: 6550-000057/CPE
Serial No.: 10/791,377	Filing Date: March 2, 2004
Title: LASER SYSTEM USING ULTRA-SHORT LASER PULSES	

Please acknowledge receipt of:

Express Mail Label No. EV 757 778 777 US (1/19/2007);
Transmittal Form (in duplicate);
Election Under 35 U.S.C. §121 and Preliminary Amendment

EV 757 778 777 US



By stamping and returning to Harness, Dickey & Pierce, P.L.C.

Due: 1/19/07

Date Mailed: 1/19/07

Attorney: MLF

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Approved for use through 03/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/791,377
	Filing Date	July 2, 2004
	First Named Inventor	M. Dantus et al.
	Art Unit	2828
	Examiner Name	D. Ruiz
Total Number of Pages in This Submission	Attorney Docket Number	6550-000057/CPE

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ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Election Under 35 U.S.C. §121 <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) ____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks: The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	Harnes, Dickey & Pierce, P.L.C.	Attorney Name	Monte L. Falcoff
		Reg. No.	37,617
Signature			
Date	January 19, 2007		

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Monte L. Falcoff	Express Mail Label No.	EV 757 778 777 US (1/19/2007)
Signature		Date	January 19, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/791,377

Filing Date: March 2, 2004

Applicant: M. Dantus et al.

Group Art Unit: 2828

Examiner: D. Ruiz

Title: LASER SYSTEM USING ULTRA-SHORT LASER PULSES

Attorney Docket: 6550-000057/CPE

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450**ELECTION UNDER 35 U.S.C. §121 AND PRELIMINARY AMENDMENT**

Sir:

ELECTION

In response to the restriction dated December 19, 2006, Applicants' representative hereby provisionally elects the alleged Species IV, Figure 15, with traverse. The embodiment of Figure 15 closely overlaps that of Figure 13, especially when the claims are considered. Given this similarity and the expected overlap of searching classes/subclasses, it is respectfully requested that the Examiner reconsider the restriction and recombine at least Species IV and II. Furthermore, the restriction of

Species I-IV, Figures 7, 13, 14 and 15, does not make sense since the hardware shown therein can be used with any of the medical end use species; for example, see Paragraph Nos. [0111]-[0113] in combination with Paragraph Nos. [0119] and [0128]-[0131] of the application.

Moreover, the Examiner has not set forth a *prima facie* case supporting the restriction. Thus, again reconsideration is respectfully requested.

Notwithstanding, Applicants' Representative believes that the following claims read on Species IV, Figure 15: 1-5, 7-9, 11, 14, 26-54, 56, 57, 59, 60, 63, 65, 66, 68 and 70-99. At least the following claims are believed to read on both Species IV and II: 1-5, 7-9, 11, 26-29, 31, 53, 54, 56, 57, 59, 60, 65 and 70-99. Finally, at least the following claims are believed to be generic to all of the alleged species: 1-4, 7, 8, 53, 54, 59, 60 and 70-99.

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PRELIMINARY AMENDMENT

Prior to examination of the present application, please consider the following.

Amendments to the Claims begin on page 4 of this paper.

Remarks begin on page 21 of this paper.